HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.16337 of 1998

18.6.2007

Between

R.Chandrayya ..Petitioner

AND

The Industrial Tribunal cum Labour Court, Vishakhapatnam represented by its Chairman and Presiding Officer and others ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.16337 of 1998

This writ petition is directed against an Award passed by the Industrial Tribunal cum Labour Court, Vishakhapatnam which entertained and decided the Industrial Dispute No.231 of 1993 raised by the writ petitioner herein. The writ petitioner claimed to have worked as Man-Mazdoor on Nominal Muster Roll basis with the Irrigation Project at Hiramandalam and that his services have been terminated illegally in the year 1984. The Labour Court had framed two points for its consideration.

1. Whether the Industrial Dispute itself is maintainable or not; and
2. Whether the workman is entitled for grant of any relief.

On the first issue, the Labour Court had come to the conclusion that the Irrigation Department of the Government of Andhra Pradesh cannot be declared as an 'industry' and consequently the Industrial Dispute raised by the writ petitioner is not maintainable. While the Irrigation Department of the State in its entirety cannot be treated or termed as an 'industry', but nonetheless, a part of it can perhaps answer the description of an 'industry', as spelt out in Section 2(j) of the Industrial Disputes Act. Therefore, for answering the question as to whether the Project where the petitioner is said to have been employed or not, is an Industry has got to be examined independently, properly and correctly. Therefore, to this extent, the exercise carried out by the

Labour Court is erroneous. Similarly, the Labour Court is also required to examine as to whether the writ petitioner can seek the benefit of Section 25 (F) of Industrial Disputes Act at all. The answer to the said question will depend upon the fact whether the writ petitioner had put in continuous service of one year preceding the alleged termination. For arriving at this conclusion, Section 25 (b) of the Industrial Disputes Act provides the mechanism and based thereon, a finding of fact has to be returned as to whether the workman is entitled to seek the benefit or not. The Award therefore deserves to be set aside and it is accordingly, set aside and the matter is remanded back for fresh consideration and disposal after giving fair and reasonable opportunity to both sides to lead appropriate and relevant evidence in this regard. The Labour Court will also examine the impact and effect of extraordinary delay that was caused in raising the dispute while passing the Award.

With this, the writ petition stands disposed of. No costs.

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NOOTY RAMA MOHANA RAO.J.

18.6.2007
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